



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

IN REPLY REFER TO:

1-1-02-I-2142

June 14, 2002

Ms. Phelicia Gomes
U.S. Army Corps of Engineers
Regulatory Branch
333 Market Street
San Francisco, California 94105-2197

Subject: Comments on U. S. Army Corps of Engineers Public Notice # 22454S for Construction of West Point Marina in Redwood City, San Mateo County, California

Dear Ms. Gomes:

This letter is in response to the U.S. Army Corps of Engineers' (Corps) Public Notice # 22454S for Mark Sanders' proposed marina (West Point Marina), to be located at Westpoint Slough in Redwood City (City). These comments by the U.S. Fish and Wildlife Service (Service) are pursuant to the Endangered Species Act of 1973, as amended (Act), and will relate the Service's opinion as to effects that endangered species might incur as a result of this project. Species which occur in this region include, but are not limited to, salt marsh harvest mouse (*Reithrodontomys raviventris raviventris*) (harvest mouse), California clapper rail (*Rallus longirostris obsoletus*) (clapper rail), and California least tern (*Sterna antillarum browni*) (least tern). These comments will also provide recommendations to assist you in meeting the standards of the Act through thoughtful project design, construction, and operation. These comments will not take the place of any formal comments that may be required under the provisions of the Act.

The proposed West Point Marina project site is located at the end of Seaport Boulevard, in Redwood City, California. The 42-acre parcel is bordered on the east by the Pacific Shores Center, currently under construction, and borders Westpoint Slough to the north and east. Salt evaporator ponds border the project to the south. The 42-acre project site is located in a portion of a large, shallow pond known as Pond 10. This pond has been traditionally used for "bittern" storage by Cargill Salt Company and their predecessor, Leslie Salt Company, as part of the salt production process. Historically, the pond 10 site was part of a large salt marsh. Project components includes a 408-slip marina, attendant boatyard and other marina services. The project will provide the only marine fuel facility in the south bay and will increase overall San Francisco Bay berthing capacity. The 14-acre marina basin will be connected to Westpoint

Slough. Land uses for the project will include marina facility buildings and paved parking areas. Features include a restaurant, yacht club, and additional business activities consistent with water-oriented public facilities.

Since the mid-1800's, 79 percent or 583 square kilometers of the original tidal marshlands of the San Francisco Bay area have been eliminated through diking, filling, or conversion to salt evaporation ponds. The Don Edwards San Francisco Bay National Wildlife Refuge's (Refuge) Greco Island is approximately 500 feet across Westpoint Slough from the project site. This island is one of the few remaining large marshes left in South San Francisco Bay that support populations of the endangered southern subspecies of the harvest mouse. Greco Island also supports clapper rail. Although other marshes can be found in South San Francisco Bay, most are narrow, interrupted strips along sloughs and bayside dikes, or highly saline, diked-off marshes with areas of sparse pickleweed. Harvest mice and clapper rail may occur in some of these areas, but the status and vigor of the populations are unknown. Much of the habitat value of Greco Island is due to its isolation, and care must be taken to insure that habitat values remain unaffected by this project. The West Point Marina project site itself contains excellent salt marsh habitat on the outboard side of the current salt pond levee on the Slough. This marsh has high potential to also provide habitat for these endangered species. Due to the presence of listed species at these nearby properties, extreme care must be taken in the planning, construction, and maintenance of this project.

Section 9 and the implementing regulations in section 4(d) of the Act, prohibit the "take" of any federally listed species by any person subject to the jurisdiction of the United States. As defined in the Act, take means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct." "Harm" has been further defined to include habitat destruction when it kills or injures a listed species by interfering with essential behavioral patterns such as breeding, foraging, or resting. "Harass" has been further defined in the Act as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering.

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required, if it is determined that the proposed project may affect a federally listed species. Such consultation would result in a biological opinion addressing the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved with the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to section 10(a) of the Act would need to be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be affected by the project.

The Service is appreciative of the obvious effort and forethought that Mr. Sanders have made to reduce effects from the proposed project, but believes the importance of nearby wetlands to the harvest mouse and clapper rail, requires additional precautions be implemented if take is to be minimized. The Service supports all of the mitigation elements found in the City's Draft Biological Resources Report dated June 25, 2001, but believes additional measures and the strengthening of some existing measures should be incorporated into the project. Regardless, the Service believes that this project is likely to result in the take of endangered species and would recommend the Corps initiate formal consultation as described above.

*formal
consultation*

Filling of the salt evaporation pond represents a loss of feeding/resting habitat for the least tern. The salt evaporation pond (pond 10) where this construction is planned, contains a 3-acre island that is a well-known resting area for many species of birds, including the least tern. Refuge employees have even observed feeding behavior in the pond within the last year. Part of the attraction for birds at this site is its aspect within an open water area, while also being close to mud-flats and open water areas of the Bay. Thus, creation of an island of similar size does not necessarily mean that the habitat will be equivalent. Clapper rail will also occur at the location of pond 10, and adjacent Cargill salt ponds, following any tidal marsh restoration that could occur there. We also question if compensation in the adjacent Cargill pond will result in long-term protection if the surrounding ponds are developed instead of restored to tidal marsh. Any compensation site that is selected must be guaranteed to be protected from impacts from development of the surrounding land. Construction of West Point Marina will also degrade existing salt marsh/pickleweed communities along the southern edge of Westpoint Slough, as well as along the drainage canal between the project site and the Pacific Shores site. Loss of mud flats and other shallow water areas of Westpoint Slough, due to dredging activity, also represents a loss of feeding habitat available to least tern and other shorebirds. These losses of habitat would necessitate acquisition, or creation of suitable habitat to offset losses to listed species.

The marine fuel facility is of heightened concern to the Service due to the potential effect to listed species and their associated habitat in a large area surrounding the proposed project site. The Service's concern about the marine fuel facility is the major concern among other project details that could cause degradation of water quality with concurrent negative impacts to listed species. Other concerns would be sewage leaks from house boats, storm water runoff and the storage and use of up to 400 motorized aquatic craft at the proposed marina. The marina should locate the fuel storage site in an area secure from leakage into surrounding waterways. This planning should take into account natural catastrophes as well as accidental spills. This would require installation of proper containment berms and development of a "hazardous materials Cleanup Plan" and participate in the "Oil Spill Prevention and Response" program managed by the California Department of Fish and Game. The Service would also recommend the implementation of "Best Management Practice" (BMP) for treatment of storm water runoff from parking lots, vehicle service and storage facilities. This treatment should include the installation and maintenance of a storm water filtration system that will capture and remove oil and grease in addition to trash, debris and coarse sediment before parking lot runoff discharges to the storm drain. Sewage releases from boats in the marina should be prohibited. All materials dredged,

*marine
fuel
facility*

uncovered, or otherwise used in the course of construction of this site, should be tested for hazardous materials.

This project will likely result in increased human interface with sensitive wildlife areas in the vicinity. Long-term indirect effects to clapper rail's is expected to occur through increased unauthorized public access to clapper rail habitat on Greco Island, the salt marsh on the outboard side of the current salt pond levee on Westpoint Slough on the project site, and adjacent Cargill salt ponds following their future restoration. Pedestrians could depart from authorized paths and establish informal access points for Bay views, or may establish an informal trail along the periphery of the wetland. The Service has documented this phenomenon at numerous marshes throughout the Bay, including the Corte Madera Ecological Reserve and Benicia State Recreation Area. A buoy system to discourage unauthorized entry should be installed and permanently maintained 100 feet from Greco Island or signage along the Refuge boundary of Greco Island.

Proper signage should be installed and maintained at all access points, as well as along Greco Island and entryways into sloughs or other passages of Greco Island. We recommend that the project applicant coordinate with the Refuge on the information signs as they are developed. The Service would recommend a 85 to 90 - foot vegetated buffer with a visual screening berm be maintained along the drainage canal on the west side of the project site, along the salt marsh on the project site on the outboard side of the salt pond levee on the Slough, as well as the Cargill salt ponds to the south. The Service would also recommend that no public access be allowed on the portion of the levee on the project site that is adjacent to the salt marsh. Appropriate signage explaining the reason for closing this area to the public would also be appropriate. Boating activity will likely contribute to erosion of existing marsh and mud-flats at Greco Island. The Service would therefore recommend a "no wake" policy be incorporated as a permanent part of any present or future operation of this site.

Any increase in lighting of salt marsh habitats is likely to result in the take of harvest mouse and clapper rail. Studies have shown that harvest mice respond to increased light levels, such as a full moon, by limiting movements and exhibiting a heightened degree of caution. This change in behavior is temporary in nature when caused by a full moon. Artificial increases in lighting would permanently limit movements and alter normal social aspects of harvest mouse behavior, such as locating mates and building nests. In addition, tidal amplitudes are much greater in the South Bay than in San Pablo or Suisun Bays. Consequently, many tidal marshes are completely submerged during high tides and lack sufficient escape habitat, likely resulting in nesting failures and high rates of predation. High tides will force harvest mice and clapper rail to abandon the relative security of pickleweed undergrowth and seek upland areas. Increased lighting would make these displaced harvest mice and clapper rail extremely susceptible to predation from feral cats, owls and other nocturnal predators. Directional lighting with baffles, non-reflective tinting on windows, and other mechanisms could possibly eliminate light amplification to nearby sensitive areas. The Service would suggest a lighting study in which the goal should be, no increase in lighting due to the project, on Greco Island, Cargill Salt Evaporator Ponds to the south, salt marsh on the south and southwest edge of project site (south side of Westpoint slough), or the canal bordering the west side of the project site. Project landscaping should be of

a type that will limit opportunities of avian predators to affect listed species. Review of the Pacific Shores landscaping plan would provide insights toward alleviating this concern. The marina's salt marsh is reported to contain exotic cordgrass, a species which is rapidly spreading in South San Francisco Bay. If this plant is allowed to expand in the area, it could degrade the quality of habitat for listed species in the Refuge and other marshes along Westpoint Slough. A management plan and funding should be established for an ongoing exotic cordgrass (*Spartina* spp) control programs. When the marina is opened to tidal action, seeds from nearby exotic cordgrass plants will invade. If not controlled, exotic cordgrass will take over mud-flat areas, causing rapid sedimentation which will necessitate frequent dredging as well as degrade wildlife habitat.

* exotic cordgrass - control

Increased tidal flows from dredging/opening the marina acreage could cause erosion at Greco Island and the project site's salt marshes. We also believe any future maintenance dredging of the Westpoint Slough channel would have serious effects on the Refuge and wildlife at Greco Island. We recommend that the applicant initiate a study on the effects of erosion and increased tidal flows that will result from the proposed dredging of the entrance to the marina. Results from this study would facilitate the formulation of a maintenance plan for dredging between the marina and the opening of Westpoint slough. Construction and/or other activities associated with this project occurring on or between the south levee of the project site and the outer boundary of Greco Island should be done outside of the clapper rail breeding season.

* erosion at Greco Island

Because of the predictable increase in the predator population that comes from human development and the increase on the predation on the sensitive wildlife next to the marina, we recommend that an active predator trapping program be required for the life of the project. The Refuge can assist the Marina in the design of this program. Outdoor pets and the feeding of pets outdoors should not be allowed. All outdoor pets should be on leashes at all times. A waste disposal program should be initiated that would eliminate scavenging behavior and/or attraction of predacious wildlife such as opossums, skunks, coyotes, fox, raccoons. Particular attention should be paid to restaurant and other food vendor operations at this site. Garbage should be removed on a regular basis to prevent overflow. Public areas should be monitored regularly and be kept free of garbage to prevent wildlife from scavenging. These rules should be strictly enforced. This restriction should be part of any lease/rental/use agreement for tenants of the development and marina. (Because rip-rap increases denning opportunities for rats, foxes and cats, we recommend that alternatives to the use of rip-rap be investigated.) If possible, a more gradual slope (4-5H:1V) should be created and native vegetation planted on newly graded areas to provide transitional habitat for high tide refugia for listed species. If rip-rap is necessary, it should consist of small materials that will not create habitat for exotic rodents. Rip-rap should not be placed on existing marsh vegetation.

* predator trapping

* add to rip-rap

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6

Thank you for the opportunity to comment on the proposed West Point Marina. If you have any questions regarding these comments, please contact David E. Wooten or Dan Buford at (916) 414-6625.

Sincerely,



Jan C. Knight
Chief, Endangered Species Division

cc:

SFBNWR, Newark, CA (Clyde Morris)

EPA, Region IX, San Francisco, CA

NMFS, Santa Rosa, CA

CDFG, Yountville, CA

BCDC, San Francisco, CA

Mark Sanders, Woodside, CA